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U-007-504.3

**OU5 DRAFT RECORD OF DECISION - COMMENTS**

**09/20/95**

**OEPA            DOE-FN**  
**14**  
**COMMENTS**



State of Ohio Environmental Protection Agency

**Southwest District Office**

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FERNALD

LOG I-3712

SEP 25 10 36 AM '95

FILE:

George V. Voinovich  
Governor

September 20, 1995

RE: DOE FEMP  
MSL #531-0297  
OU5 DRAFT RECORD OF  
DECISION - COMMENTS

Mr. Johnny Reising  
U.S. Department of Energy, Fernald Area Office  
P.O. Box 538705  
Cincinnati, OH 45253-8705

Dear Mr. Reising:

This letter provides Ohio EPA comments on the draft "Record of Decision for Remedial Actions at Operable Unit 5" submitted to EPA on August 3, 1995. The successful resolution of these comments is essential for Ohio EPA approval and concurrence with the Record of Decision. Ohio EPA believes the meetings and discussions held prior to the formal submittal of the attached comments will ensure their timely and acceptable resolution.

If you should have any questions, please contact me at (513) 285-6466.

Sincerely,

Thomas A. Schneider  
Fernald Project Manager  
Office of Federal Facilities Oversight

cc: Jim Saric U.S. EPA  
Terry Hagen, FERMCO  
Ruth Vandegrift, ODH  
Bob Geiger, PRC  
Manager TPSS, DERR/CO  
Lisa August, GeoTrans  
Jeff Hurdley, Legal/CO

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## OHIO EPA COMMENTS ON THE DRAFT OU2 ROD

General Comments

- 1) Commenting Organization: Ohio EPA Commentor: OFFO  
Section #: Pg #: Line #: Code: M  
Original Comment #:  
Comment: Ohio EPA is not satisfied with the language of the ROD and specifically the Declaration section concerning receipt of off-site waste. Ohio EPA believes DOE must clearly commit within the ROD to not accepting and not attempting to ship any off-site waste for disposal at the Fernald site. Clearly, Ohio EPA will exercise its legal authority to prevent receipt of off-site waste for storage or disposal as is suggested in the ROD. Yet, we believe it is necessary for DOE to commit to not attempting to ship waste to Fernald for storage or disposal. Ohio EPA recommends DOE incorporate the language provided in the approved OU2 ROD concerning off-site waste.  
Response:  
Action:
- 2) Commenting Organization: Ohio EPA Commentor: OFFO  
Section #: Pg #: Line #: Code: M  
Original Comment #:  
Comment: DOE's position concerning on-site disposal of characteristic hazardous waste is inconsistent with the language of the approved OU2 ROD. Characteristic waste is readily treatable with currently available technology. Ohio EPA believes that the requirement for treatment of these materials prior to disposal on-site is consistent with the NCP's statutory preference for treatment. Ohio EPA's position with regard to this issue and its link to our support of the siting requirements waiver has been consistent throughout the process. In addition, significant public comment was received on the OU5 and OU2 proposed plans concerning no on-site disposal of characteristic hazardous wastes. To address these comments differently would appear to put the RODs in conflict. As stated previously, Ohio EPA believes the requirement to exclude characteristic waste from the cell is not an overburdensome one based upon available site data and process knowledge. For the sake of efficiency, Ohio EPA chose not to comment upon each reference to on-site disposal of characteristic waste within the ROD but expects a successful comment resolution with result in complete revision of the document as necessary.  
Response:  
Action:
- 3) Commenting Organization: Ohio EPA Commentor: OFFO  
Section #: Pg #: Line #: Code: M  
Original Comment #:  
Comment: The draft ROD employs language throughout that differs to varying degrees from the approved OU2 ROD with regard to the solid waste siting criteria waiver. Such variations raise questions of intent and meaning. Ohio EPA believes it would be more expedient if in all cases possible, DOE would use the exact language from the OU2 ROD, thus limiting the need for substantial legal review and comment. In instances where DOE believes it is necessary to deviate from the OU2 language, Ohio EPA requests the Comment Response document justify those deviations. Since DOE has requested Ohio EPA clarify instances of inconsistencies in the RODs, we have attempted to comment on a number

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of such instances. Ohio EPA expects that following successful comment resolution the document will be revised in its entirety as appropriate.

Response:

Action:

- 4) Commenting Organization: Ohio EPA Commentor: OFFO

Section #: Pg #: Line #: Code: M

Original Comment #:

Comment: The draft OU5 ROD defers a decision with regard to continued federal ownership of the FEMP to an unknown later date. The previously approved RODs for Operable Units 1, 2, & 4 either state the decision will be made in the OU5 ROD or in the case of OU2 states "This alternative will include continued federal ownership of the site with...". This appears to create a conflict which needs to be resolved within the OU5 ROD. The issue has been addressed both in public comments on the OU5 Proposed Plan and in the Fernald Citizens Task Force recommendations. A number of the comments and the Task Force's recommendations seem to be at odds. In addition, it is unclear how DOE can ensure land use is maintained by simply applying deed restrictions at some point in the future. Such deed restrictions can be removed by future land owners and DOE would still retain a level of liability for ensuring protectiveness is maintained.

These issues point to the necessity to clearly define ownership within the OU5 ROD or determine a date when such a determination will be made. Such a determination should be made in a manner similar to that required for a ROD with regard to public involvement and enforceability.

Response:

Action:

- 5) Commenting Organization: Ohio EPA Commentor: OFFO

Section #: Pg #: Line #: Code: M

Original Comment #:

Comment: Ohio EPA does not agree with DOE's proposal to change the 20 ppb total uranium discharge requirement previously outlined within the Proposed Plan. Recent data provided by DOE suggest such a 20 ppb total uranium discharge requirement is achievable. Consistent with the application of a best demonstrated available technology, Ohio EPA believes that conditions surrounding implementation of such a requirement can be created to direct DOE towards a point of compliance at some date in the near future.

Response:

Action:

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Specific Comments

- 6) Commenting Organization: Ohio EPA Commentor: OFFO  
Section #: Declaration Pg #: D-ii Line #: 1st bullet Code: c  
Original Comment #:  
Comment: Replace the phrase "that final remediation levels for the site have been attained" with the phrase "the site shall be cleaned up until the sampling program indicates with a reasonable degree of confidence that the concentrations of contaminants at the entire site are statistically less than the cleanup standard. This wording is more consistent with the language used in Section 9 Page 2 Line 23 which states "Excavation will continue until a certification sampling program indicates with a reasonable confidence that the concentrations of contaminants at the entire site are statistically less than the final remediation levels."  
Response:  
Action:
- 7) Commenting Organization: Ohio EPA Commentor: OFFO  
Section #: Declaration Pg #: D-iii Line #: 1-8 Code: C  
Original Comment #:  
Comment: DOE should replace this paragraph with the respective paragraph from the OU2 ROD (pg D-2).  
Response:  
Action:
- 8) Commenting Organization: Ohio EPA Commentor: OFFO  
Section #: 1 Pg #: 1-10 Line #: 6,7 Code: C  
Original Comment #:  
Comment: This statement doesn't mention whether or not the surveys confirmed the presense of these species. Please discuss the results of the survey.  
Response:  
Action:
- 9) Commenting Organization: Ohio EPA Commentor: OFFO  
Section #: 3.0 Pg #: 3-2 Line #: 17-25 Code: E  
Original Comment #:  
Comment: Publication titles should be underlined or italicized.  
Response:  
Action:

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- 10) Commenting Organization: Ohio EPA Commentor: OFFO  
Section #: 3.0 Pg #: 3-3 Line #: Code: C  
Original Comment #:  
Comment: The section should include the Ohio EPA availability session on the OU5 Proposed Plan held May 15, 1995 as well as the USEPA and Ohio EPA availability session on the disposal cell waiver held September 13, 1994.  
Response:  
Action:
- 11) Commenting Organization: Ohio EPA Commentor: OFFO  
Section #: 3.0 Pg #: 3-3 Line #: Code: C  
Original Comment #:  
Comment: It would seem appropriate to include a discussion of the some of the OU2 actions as they relate to presenting the disposal cell concept to the public. These sessions have brought some of the more detailed aspects of on-site disposal to the public and should be included as community participation activities. In addition, a brief discussion of the Fernald Citizens Task Force sessions on disposal options should be included. All of this information will help clarify the number of opportunities provided for information sharing and public input to the process.  
Response:  
Action:
- 12) Commenting Organization: Ohio EPA Commentor: OFFO  
Section #: 4 Pg #: 4-1 Line #: 14 Code: c  
Original Comment #:  
Comment: Please add a phrase to this sentence reflecting the duration of soil cleanup that is expected in the accelerated scenario.  
Response:  
Action:
- 13) Commenting Organization: Ohio EPA Commentor: OFFO  
Section #: 4.0 Pg #: 4-3 Line #: 4-10 Code: C  
Original Comment #:  
Comment: Based upon current discussions regarding the appropriateness of an additional operable unit, it would seem prudent to not incorporate the referenced text in the ROD.  
Response:  
Action:
- 14) Commenting Organization: Ohio EPA Commentor: OFFO

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Section #: 4.0 Pg #: 4-3 Line #: Code: C

Original Comment #:

Comment: Previous RODs have reference NEPA activity within this section of the document. Is this omission based upon a recent change in DOE position with regard to NEPA implementation? Ohio EPA is simply seeking clarification in the comment response document not a change in the ROD.

Response:

Action:

- 15) Commenting Organization: Ohio EPA Commentor: OFFO

Section #: 5 Pg #: 5-3 Line #: Table 5-1 Code: c

Original Comment #:

Comment: It has recently been determined that Tc-99 is a critical driver in OU3. Because they are proposing a mass-based WAC for that OU, please add summary statistics for that contaminant to this Table.

Response:

Action:

- 16) Commenting Organization: Ohio EPA Commentor: OFFO

Section #: 9 Pg #: 9-1 Line #: 17,18 Code: c

Original Comment #:

Comment: This should be clarified to describe the difference between minor field changes and major changes to the scope of this ROD. It should be explicitly stated that major changes require an amendment to the ROD.

Response:

Action:

- 17) Commenting Organization: Ohio EPA Commentor: OFFO

Section #: 9 Pg #: 9-6 Line #: 5,6 Code: c

Original Comment #:

Comment: Please add a short clarifying section here that explains that the perched waters with listed hazardous waste are being pre-treated to avoid introducing listed wastes to the main water treatment systems of the FEMP. Also, please state here that treatment residuals resulting from the pre-treatment of these listed perched waters will be managed as hazardous waste.

Response:

Action:

- 18) Commenting Organization: Ohio EPA Commentor: OFFO

Section #: 9.1.7 Pg #: 9-13 Line #: 11-14 Code: C

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## Original Comment #:

Comment: The referenced text appears to provide a vague pathway for getting out of institutional controls without public comment or revision of any binding document. This issue needs to be resolved in the context of Ohio EPA's previously stated comments on institutional controls. The language as written is specifically why Ohio EPA is concerned with putting decisions regarding land use and institutional controls into some later as yet undetermined document.

Response:

Action:

- 19) Commenting Organization: Ohio EPA                      Commentor: OFFO  
Section #: 9.1.7 Pg #: 9-14 Line #: 10-12              Code: C

## Original Comment #:

Comment: The referenced text was specifically stricken from the OU2 draft ROD based upon public concern and the commitment to continued federal ownership.

Response:

Action:

- 20) Commenting Organization: Ohio EPA                      Commentor: OFFO  
Section #: 9.1.9 Pg #: 9-15 Line #:                      Code: C

## Original Comment #:

Comment: Since the site is moving forward with the Ten-Year plan and that documentation of this commitment would be useful, DOE should consider incorporation of that cost and schedule data into the document. The change from the Proposed Plan would be explained within Section 11. There could be significant benefits realized from incorporating such language into the ROD and subsequent notifications of its finalization.

Response

Action:

- 21) Commenting Organization: Ohio EPA                      Commentor: OFFO  
Section #: Table 9-1 Pg #: 9-16 Line #: 1-12              Code: C

## Original Comment #:

Comment: The table is very confusing and seems to have a number of "bottom lines". Either additional text should be added to explain the table, or replace the table with text.

Response:

Action:

- 22) Commenting Organization: Ohio EPA                      Commentor: OFFO  
Section #: 10.1.4 Pg #: 10-5 Line #: 2                      Code: E



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Original Comment #:

Comment: Revise text to state "will **not** be exceeded."

Response:

Action:

- 23) Commenting Organization: Ohio EPA Commentor: OFFO  
Section #: 10.2.1 Pg #: 10-7 Line #: 4-12 Code: C  
Original Comment #:  
Comment: Please replace the referenced text with that directly from the OU2 ROD (pg 10-5).  
Response:  
Action:
- 24) Commenting Organization: Ohio EPA Commentor: OFFO  
Section #: 10.2.2 Pg #: 10-8 Line #: 16-18 Code: C  
Original Comment #:  
Comment: Please replace the referenced text with that directly from the OU2 ROD (pg 10-7) while incorporating new data of 20 feet of gray clay.  
Response:  
Action:
- 25) Commenting Organization: Ohio EPA Commentor: OFFO  
Section #: 10.2.2 Pg #: 10-9 Line #: 26 Code: C  
Original Comment #:  
Comment: Please replace the referenced text with that directly from the OU2 ROD (pg 10-8).  
Response:  
Action:
- 26) Commenting Organization: Ohio EPA Commentor: OFFO  
Section #: 10.2.2 Pg #: 10-10 Line #: 14-21 Code: C  
Original Comment #:  
Comment: Please replace the referenced text with that directly from the OU2 ROD (pg 10-9).  
Response:  
Action:
- 27) Commenting Organization: Ohio EPA Commentor: OFFO  
Section #: 10.4 Pg #: 10-12 Line #: 11-12 Code: C  
Original Comment #:  
Comment: DOE's conclusions that the selected remedy "does provided significant reduction of..." is

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inconsistent with its conclusion in the OU2 ROD that the selected remedy "does not provide significant reduction...". A smaller portion of the waste stream from OU5 is being treated than is treated under the OU2 ROD, thus the basis for deciding that a significant reduction is occurring in OU5 is unclear.

Response:

Action:

- 28) Commenting Organization: Ohio EPA Commentor: OFFO  
Section #: 10.4 Pg #: 10-12 Line #: 18 Code: C  
Original Comment #:  
Comment: Revise the sentence to state "...extracting and **selectively** treating..." since all ground water won't be treated.  
Response:  
Action:
- 29) Commenting Organization: Ohio EPA Commentor: OFFO  
Section #: 10 Pg #: 10-13 Line #: 25 Code: c  
Original Comment #:  
Comment: Please strike the word 'necessity' and replace with 'desirability' or 'utility'.  
Response:  
Action:
- 30) Commenting Organization: Ohio EPA Commentor: OFFO  
Section #: 10 Pg #: 10-14 Line #: 10-13 Code: c  
Original Comment #:  
Comment: Please add concentration-based discharge criteria to this sentence.  
Response:  
Action:
- 31) Commenting Organization: Ohio EPA Commentor: OFFO  
Section #: 10.6 Pg #: 10-15 Line #: Code: C  
Original Comment #:  
Comment: The language provided in the referenced text differs from that in the OU2 ROD and appears to differ from the agreed to language from OU4 and OU1. The language should be revised to that previously approved in negotiations by Ohio EPA and DOE.  
Response:  
Action:
- 32) Commenting Organization: Ohio EPA Commentor: OFFO

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Section #: 10 Pg #: 10-15 Line #: 17 Code: c

Original Comment #:

Comment: Please explicitly state here that the characteristic hazardous wastes will be treated to the extent necessary to remove the characteristics that cause them to be regulated.

Response:

Action:

33) Commenting Organization: Ohio EPA Commentor: OFFO

Section #: A.1.2 Pg #: A.1-2 Line #: 12-14 Code: C

Original Comment #:

Comment: A number of commentors stated the cleanup levels were appropriate and at least one suggest ground water cleanup should go further. If DOE feels it necessary to provide such summaries of comments then it should represent the comments of both sides of the issue.

Response:

Action:

34) Commenting Organization: Ohio EPA Commentor: OFFO

Section #: A.2.1 Pg #: A.2-2 Line #: 1-2 Code: C

Original Comment #:

Comment: The Task Force was not formed to develop a "public consensus" but to provide DOE recommendations on the issues of cleanup and future use.

Response:

Action:

35) Commenting Organization: Ohio EPA Commentor: OFFO

Section #: A.3.0 Pg #: A.3-28 Line #: Code: C

Original Comment #:

Comment: The response fails to address the commentors suggestion that the bedrock would need to be excavated. It seems appropriate to address this issue specifically as this is the only commentor to address potential bedrock contamination. The response should state that data shows no bedrock contamination thus there would be no need to excavate it.

Response:

Action:

36) Commenting Organization: Ohio EPA Commentor: OFFO

Section #: A.3.0 Pg #: A.3-70 Line #: Dunn,P. 6 Code: C

Original Comment #:

Comment: The commentor specifically addresses off-site waste being "...disposed of within the FEMP

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boundaries...". The response only addresses off-site waste within the OU5 disposal facility. DOE should address the fact that it is only partly responding to the commentor's concern.

Response:

Action:

- 37) Commenting Organization: Ohio EPA Commentor: OFFO  
Section #: A.3.0 Pg #: A.3-94 Line #: Renck, T.E. 2 Code: E  
Original Comment #:  
Comment: Revise "siteing" to state "siting."  
Response:  
Action:
- 38) Commenting Organization: Ohio EPA Commentor: OFFO  
Section #: A.3.0 Pg #: A.3-96 Line #: Renck, T.E. 5, Response 2nd par Code: E  
Original Comment #:  
Comment: Insert "water" following "perched."  
Response:  
Action:
- 39) Commenting Organization: Ohio EPA Commentor: OFFO  
Section #: A.3.0 Pg #: A.3-97 Line #: Renck TE 6, Response 2nd para. Code: C  
Original Comment #:  
Comment: Delete "full" preceding "restoration". The GMA will be remediated to MCLs, etc. The response suggests the GMA will be restored to background or its original state.  
Response:  
Action:
- 40) Commenting Organization: Ohio EPA Commentor: OFFO  
Section #: A.3.0 Pg #: A.3-116 Line #: Shulte, A 2, Response Code: C  
Original Comment #:  
Comment: The comment included a specific reference to the waiver but it was lost during the breakup of the letter. One of the responses should be revised to include some discussion of the waiver and its justification.  
Response:  
Action:
- 41) Commenting Organization: Ohio EPA Commentor: OFFO  
Section #: A.3.0 Pg #: A.3-116 Line #: Shulte, A 3, Response Code: C

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## Original Comment #:

Comment: This comment did not occur on the previous comment sheet. The text should reference the source of the comment, which is believed by this reviewer to be the public comment session.

Response:

Action:

- 42) Commenting Organization: Ohio EPA Commentor: OFFO  
Section #: A.4.0 Pg #: A.4-1 Line #: 24-26 Code: C  
Original Comment #:  
Comment: A significant number of public comments addressed the need for the OU5 ROD to specifically address ownership and institutional controls. It is unclear if any commentors suggested delaying the determination until the RD. The only recommendation for such action has come from the Task Force. Thus it is clear that this provides an accurate summary of the public comments received.  
Response:  
Action:
- 43) Commenting Organization: Ohio EPA Commentor: OFFO  
Section #: A.4.0 Pg #: A.4-1 Line #: Code: C  
Original Comment #:  
Comment: The section fails to reference the substantial comments concerning no characteristic waste in the on-site disposal cell.  
Response:  
Action:
- 44) Commenting Organization: Ohio EPA Commentor: OFFO  
Section #: Appendix B Pg #: Line #: Code: c  
Original Comment #:  
Comment: Please see the attached sheet for a listing of ARAR discrepancies. We have listed only those ARARs and TBCs which Ohio EPA believes should be included in this ROD that we could not find in Appendix B.  
Response:  
Action:

## OU5 DRAFT ROD REVIEW ARARs

Citation	Summary
Ohio Revised Code(ORC)3704.05 Paragraphs A thru I ORC 3734.02(I) ORC3734.02.7 A,B	Prohibits air pollution  air emissions from HW facilities prohibits commingling of LLW w/ solid waste
ORC 3734.03 ORC 6111.04 ORC 6111.07 A,C	prohibits open dumping or burning prohibits pollution of waters of the State prohibits failure to comply w/ water pollution control requirements
Ohio Administrative Code (OAC) 3745-34-07 OAC 3745-34-08 OAC 3745-50-44 Paragraph A	prohibits unauthorized injection into groundwater prohibits injection of hazardous or radioactive waste establishes substantive hazardous waste permit requirements
OAC3745-50-44 Paragraph B	establishes substantive hazardous waste land disposal requirements
OAC 3745-50-44 Paragraph C6	establishes substantive hazardous waste requirements for land units
OAC 3745-50-44 Paragraph C9	establishes substantive hazardous waste requirements for miscellaneous units
OAC 3745-56-51 Paragraphs A thru F OAC 3745-56-54 Paragraphs A,B OAC 3745-56-56 Paragraphs A,B OAC 3745-56-57 Paragraphs A,B,C OAC 3745-56-58 Paragraphs A,B,C OAC 3745-56-59 Paragraphs A	hazardous waste piles hazardous waste piles hazardous waste piles hazardous waste piles hazardous waste piles hazardous waste piles
OAC 3745-9-04 Paragraphs A,B OAC 3745-9-05 Paragraph s A1, B thru H OAC 3745-9-06 ParagraphsA,B,D,E OAC 3745-9-07 Paragraphs A thru F OAC 3745-9-08 Paragraphs A,C OAC 3745-9-09 Paragraphs A thru C, D1 and E thru G OAC 3745-9-10 Paragraphs A,B,C OAC 3745-9-11	monitor wells siting monitor well construction monitor well casing requirements monitor well surface design start-up of new monitor wells  maintenance of monitor wells abandonment of test holes and monitor wells prohibits disposal in wells

**OU2 ARARs and TBCs that were not in the OU5 ROD**

"Methods for Evaluating the Attainment of Cleanup Standards Volume 1" USEPA Guidance

OAC 3745-27-05

40 CFR Part 257.3-7

40 CFR Part 257.3-3

prohibits open burning and open dumping

prohibits open burning

prohibits water pollution from solid waste facility